

FITAPELLI & SCHAFFER, LLP

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**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

**DON HADEL, REBECCA JACKSON, NICOLE
WINKLER, and TANICE SMITH, on behalf of
themselves and all others similarly situated,**

No.: 15 Civ. 3706 (RLE)

Plaintiffs,

-against-

**GAUCHO, LLC, SAMBA BRANDS
MANAGEMENT, 7TH & BARROW LLC, AVENUE
SPOON INC., SAMBODORO, LLC; SAMBA
CORAL GABLES, LLC; RIVER NORTH, LLC;
SAMBA VEGAS, LLC; SHIMON BOKOVZA,
DANIELLE BILLERA, and MATTHEW JOHNSON,
Defendants.**

**NOTICE OF PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF
SETTLEMENT, CONDITIONAL CERTIFICATION OF THE SETTLEMENT CLASS,
APPOINTMENT OF PLAINTIFFS' COUNSEL AS CLASS COUNSEL, AND
APPROVAL OF PLAINTIFFS' PROPOSED NOTICES OF SETTLEMENT
AND CLASS ACTION SETTLEMENT PROCEDURE**

For the reasons set forth in the Memorandum of Law in Support of Plaintiffs' Motion for Preliminary Approval of Settlement, Conditional Certification of the Settlement Class, Appointment of Plaintiffs' Counsel as Class Counsel, and Approval of Plaintiffs' Proposed Notices of Settlement and Class Action Settlement Procedure ("Motion for Preliminary Approval") and in the Declaration of Brian S. Schaffer in Support of Plaintiffs' Motion for Preliminary Approval ("Schaffer Declaration"), Plaintiffs respectfully requests that the Court enter an Order:

(1) granting preliminary approval of the Settlement Agreement and Release ("Settlement Agreement"), attached as **Exhibit A** to the Schaffer Declaration;

(2) conditionally certifying the following settlement class under Fed. R. Civ. P. 23(a) and (b)(3) for purposes of effectuating the settlement:

All persons who work or have worked as a server, busser, runner, bartender, and barback for at least 15 days at the Sushi Samba restaurants in New York between May 13, 2009 through preliminary approval.

- (3) appointing Fitapelli & Schaffer, LLP as class counsel;
- (4) approving Plaintiffs' Notices of Class and Collective Action Lawsuit Settlement and Fairness Hearing, attached as **Exhibit B and C** to the Schaffer Declaration;
- (5) approving Plaintiffs' proposed schedule for final settlement approval; and
- (6) granting such other, further, or different relief as the Court deems just and proper.

* * *

Plaintiff has contemporaneously submitted a Proposed Order, attached as **Exhibit D** to the Schaffer Declaration, for the Court's convenience.

Dated: New York, New York
November 30, 2015

Respectfully submitted,

/s/ Brian S. Schaffer

Brian S. Schaffer

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*Attorneys for Plaintiffs and
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